

REMARKS

In paragraph 3 of the Office Action, claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sharkan in view of Bucholz.

Reconsideration is requested.

Claim 9 has been canceled and new claim 13 has been added to the application to point out the invention. New claim 13 points out a vessel for cosmetic products that does not include the peripheral flange or the attaching means 34 and 36 of Sharkan. For further limiting new claim 13, original claim 9 has been combined with original claims 10, 11 and 12, thereby new claim 13 is substantially a literal combination of canceled claims 9, 10, 11 and 12, to which combination no new matter has been added. The further words which have been added to claim 13 are that the gap is a "thermally and light insulating gap" which terms do not introduce new matter since they have been clearly disclosed for example on lines 21 to 25 of page 4 of Applicant disclosure (whereas the Sharkan's reference does not provide any thermally insulating gap, merely since the bottom of Sharkan's bowl is lacking).

It is not correct to conclude that the prior art bowl is adapted for holding cosmetic creams and pharmaceutical products, without, for example, substantial modifications. Moreover, as also noted by the Examiner, this prior "bowl" does not comprise an integral cover having a weakened line in a hinge lug or being molded in a single piece with the holding body.

The Examiner has applied Sharkan as teaching a

container/holding body which is capable of being used to hold cosmetic and pharmaceutical creams. The Applicant does not agree with this assertion of the Examiner. In fact, the newly cited reference to Sharkan discloses pet accessories, and, in particular, a bowl for making water and/or food available to a pet especially during travel. Thus, one searching through the prior art for suggestions for making a vessel for holding cosmetic and pharmaceutical creams would not have been directed to the Sharkan reference since it is related to the feeding of pets which is distinctly different from the cosmetic and pharmaceutical field. Actually, the prior bowl construction, is not adapted to hold cosmetic products and would have to be modified for use with cosmetic and pharmaceutical creams by removal of the bottom peripheral flange 24b which Sharkan used to support the pet bowl on a surface as well as by removing Sharkan's fixed elements 36 and 22b for attaching the bowl to a surface for stabilizing the bowl for allowing, for example, a dog to drink water without tilting the bowl. Bucholtz was applied as actually disclosing a container molded in one piece including a hinge/coupling lug with a weakened line to facilitate bending when folding the cover into the closed position. Applicant agrees that Bucholz discloses the feature related to the cover of Applicant's vessel. However, such a non-detachable cover cannot be applied to the bowl taught by Sharkan since, Sharkan explicitly requires that the cover be removable and that the cover also must include a groove in its under surface for engaging with a rim on the top mouth of the bowl.

Applicant's new claim 13 is directed to a

cosmetic vessel specifically designed for receiving cosmetic and pharmaceutical products and not, for example, making drinking water available for a pet in accordance with Sharkan. The phrase in new claim 13 which point out that the gap is a "thermally and light insulating gap" are clearly disclosed for example on lines 21 to 25 of page 4 of the specification whereas Sharkan does not provide any thermally insulating gap, merely because the bottom of Sharkan's bowl is lacking.

Thus, new claim 13 comprises the new feature that Applicant's jar comprises an undercover washer element to be operatively coupled to said closure cover for tightly closing the mouth of the inner vessel, as said closure cover is swingably closed, and wherein the undercover washer element comprises a convex central portion ending in a perimetrical lip operating as a gasket and housed in an undercut step formed at a top portion of the mouth, and wherein said undercover washer element comprises a throughgoing hole to be engaged by an enlarged head of a peg formed in a single piece with the cover (the words "single piece" are embraced by the term "integral" which is also disclosed in Applicant's specification at page 5, lines 9-13.

Claims 10-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sharkan in view of Bucholz further in view of Stieler.

Reconsideration is requested.

On page 3 of the Office Letter, the Examiner has stated that Stieler teaches a hinged cover (4) comprising an inner sealing washer (6) and further states that "regarding claim 12, although the screw (18) is not integral in one piece with the cover, it is

integrally connected with the cover". Applicant does not agree with this assertion. In new claim 13, the peg is defined as being formed in a single piece with the cover or integrally formed with the cover. In Stieler, the screw is removably coupled to the cover upon threading it through a hole of the washer element and a corresponding hole in the cover. This means that the screw is not "originally" integral with the under surface of the cover but is removably associated therewith upon threading at first the screw through the washer element and then in the central hole of the cover. In passing through the hole of the washer element, in this prior document, the screw head is engaged with a washer element to increase the contact area of the head of the screw with the under surface of the sealing washer element. Thus, while in Applicant's jar the pin is integral with the under surface of the cover, this is not the case in the Stieler patent where the screw could not be, for example, welded to the under surface of the cover.

In other words, in Applicant's jar, as defined by new claim 13, when assembling and coupling the washer element, this washer element can be engaged at the start on the mouth of the vessel, and then the cover can be lowered to cause the integral peg to penetrate in the cover of the sealing washer element. On the contrary, in Stieler it is not possible to lower the cover and connect the screw automatically to the underlying washer element since the screw must first be caused to pass through the bottom hole of the sealing washer element, with the screw head engaged in a washer proper. In addition, it would be necessary to further screw the screw element in the hole of the cover by

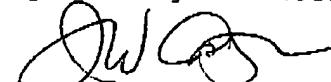
driving the screw by a screw driver. On the contrary, in Applicant's new claim 13, by merely lowering the cover, the peg will automatically penetrate, with any further action, into the hole of the underlying sealing washer whereby the enlarged head of the peg automatically engages the sealing washer element. In the Stieler '926 patent, it was admitted that it would be possible to screw on the screw only to the cover and that it would not be possible to lower the cover and automatically engage the head of the screw in the central hole of the sealing washer.

Thus, it is respectfully submitted that new combined claim 13 is patentable over the newly cited prior art patents and allowance thereof is substantially required.

New claim 14, on the other hand, further recites the feature that the convex central portion of the washer element defines with an under surface of the cover a further gap also providing head and light protecting properties. This feature is clearly shown in Applicant's drawings

In view of the foregoing discussion allowance of the application is respectfully solicited.

Respectfully submitted,



James V. Costigan
Registration No. 25,669

Hedman & Costigan, P.C.,
1185 Avenue of the Americas
New York, NY 10036
(212) 302-8989